

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ARYA RISK MANAGEMENT	\$	CASE NO. 4:16-cv-3595
SYSTEMS, PVT. LTD.	\$	HOUSTON, TX
	\$	TUESDAY
VERSUS	\$	DECEMBER 18, 2018
	\$	10:00 A.M. TO 11:37 A.M.
DUFOSSAT CAPITAL PUERTO RICO,	\$	
LLC et al.	\$	

MOTION HEARING

BEFORE THE HONORABLE NANCY JOHNSON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PARTIES:	SEE NEXT PAGE
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1 HOUSTON, TEXAS; TUESDAY, DECEMBER 18, 2018; 10:00 A.M.

2 THE COURT: Good morning, did someone else join
3 the line?

4 MR. CURNUTT: This is Kelly Curnutt.

5 THE COURT: Thank you. Court will begin
6 shortly.

7 CLERK: All rise.

8 THE COURT: All right. Good morning, everyone.
9 Please be seated. All right, this is United States
10 District Court for the Southern District of Texas. I'm
11 Magistrate Judge Nancy Johnson. Who do we have? We have
12 Mr. Pearson?

13 MR. PEARSON: Good morning, Your Honor.

14 THE COURT: Good morning. Mr. Wynne?

15 MR. WYNNE: Good morning, Your Honor. And Mr.
16 Foret.

17 THE COURT: Mr. Foret?

18 MR. WYNNE: Yes, Your Honor.

19 THE COURT: And?

20 MR. WYNNE: Our client, Mr. Ashton Soniat.

21 THE COURT: Ah, okay. Good morning. Now, I am
22 not going to address any of the pending Motions for
23 Summary Judgment. I need to write on those. But we need
24 to sort out sanctions before I can consider if there's any
25 admissible evidence for Summary Judgment. So, this is

1 it's spoliated, and it's on you.

2 MR. PEARSON: Well, I could -- Your Honor, I
3 understand. But --

4 THE COURT: You put a --

5 MR. PEARSON: -- they're asking to have our --

6 THE COURT: You put a server --

7 MR. PEARSON: -- plead -- there are multiple
8 claims in this case that have nothing to do with the unit.

9 THE COURT: -- in a dress box and shipped it from
10 India.

11 MR. PEARSON: Your Honor --

12 THE COURT: It is completely beyond negligence.
13 All right.

14 MR. WYNNE: Your Honor --

15 MR. PEARSON: I'm not finished yet. If I could
16 keep going, that would be great.

17 THE COURT: All right. Mr. Wynne?

18 MR. WYNNE: As I understand it from Mr. Townsend,
19 who could address this, their expert is not EMC certified
20 and is therefore not qualified to conduct this analysis. If
21 the Court would entertain it, I would like Mr. Townsend to
22 be more specific.

23 THE COURT: Well, the point is that it seems like
24 your side agrees we can't get the information. If we try to
25 boot it up, the computer may fry and it'll be gone. But

1 it's kind of gone anyway as I understand it, right, Mr.
2 Townsend? So there's no harm in letting them try to boot it
3 up. The point is that you need to be there, someone needs
4 to be there.

5 MR. PEARSON: Right. And obviously I'm not trying
6 to say we should take it and run off with it. We'll do it
7 at Rarity's office if we can.

8 THE COURT: Right.

9 MR. PEARSON: But we -- you know, before we just
10 take their word for it that it's gone, we ought to be able
11 to determine that.

12 THE COURT: Okay.

13 MR. PEARSON: And I would just say lastly, Your
14 Honor, that I understand your concerns about spoliation. I
15 would just say in closing that the remedy they're seeking of
16 striking pleadings is not appropriate under the facts here.
17 It's extreme. There's much lesser sanctions that would be
18 available.

19 THE COURT: Of course it's extreme.

20 MR. PEARSON: There's much lesser sanctions that
21 would be available.

22 THE COURT: Like what?

23 MR. PEARSON: Like their whole compliant was we
24 can't tell because the unit's been destroyed or damaged,
25 whether your clients access the data on the unit or not.

1 responses to striking experts?

2 THE COURT: Correct.

3 MR. FORET: Okay, thank you, Your Honor.

4 THE COURT: Correct. All right. We are in
5 recess.

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7 (Hearing adjourned at 11:37 A.M.)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.

A handwritten signature in cursive script that reads "Sonya M. Ledanski Hyde".

Sonya Ledanski Hyde

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Date: December 21, 2018